

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

RONALD WAYNE LEE,)	
)	
Petitioner,)	
)	
v.)	CIV-16-962-R
)	
TOMMY SCARANTINO, WARDEN,)	
)	
Respondent.)	

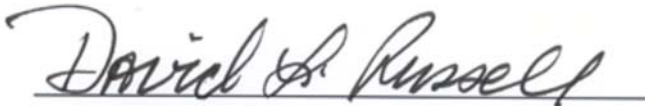
ORDER

Petitioner filed this action pursuant to 28 U.S.C. § 2241 seeking a writ of habeas corpus with regard to the execution of a federal sentence imposed by the Northern District of Texas in 2011. Pursuant to 28 U.S.C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Shon T. Erwin for preliminary review. On November 21, 2016, Judge Erwin issued a Report and Recommendation wherein he recommended the petition be denied. The matter is currently before the Court on Petitioner's timely objection to the Report and Recommendation, which gives rise to the Court's obligation to undertake a *de novo* review of any portion of the Report and Recommendation to which Petitioner makes specific objection. Having conducted its *de novo* review, the Court finds as follows.

Petitioner contends that he is entitled to credit toward completion of his federal sentence for time served on his state revocation sentence. He contends, as set forth in the Report and Recommendation, that his return to the custody of the State of Texas to serve a sentence of incarceration imposed therein, revoking his parole, prior to service of his federal sentence resulted in service of his federal sentence in installments, which is

inappropriate. Judge Erwin concluded that Petitioner's reliance on *Weekes v. Fleming*, 301 F.3d 1175, 1179 (10th Cir. 2002), was misplaced, because the facts in *Weekes* were distinguishable from the facts of the instant case. Notably, Petitioner herein was not designated to a federal facility by the Bureau of Prisons, thereby commencing his federal sentence, and then transferred to state custody before returning to federal custody to complete his sentence. Petitioner's objection provides no basis for the Court to disagree with the Report and Recommendation of Judge Erwin. Accordingly, the Report and Recommendation is hereby ADOPTED and the Petition herein is DENIED. Furthermore, the Court hereby DENIES Petitioner a Certificate of Appealability. A COA will issue only if Petitioner demonstrates "that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quotations omitted). The Court finds the issues raised by the Petition and resolved by the Report and Recommendation and this Order are not subject to debate by reasonable jurists nor are the issues adequate to deserve further encouragement to proceed.

IT IS SO ORDERED this 8th day of December, 2016.


DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE